

Senate Study Bill 1106 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
EDUCATION/COLLEGE STUDENT
AID COMMISSION BILL)

A BILL FOR

1 An Act relating to oversight functions performed by the college
2 student aid commission regarding certain restrictions and
3 requirements for schools offering postsecondary educational
4 programs, establishing a fund, providing for fees, and
5 making penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 261B.8, subsection 3, Code 2011, is
2 amended to read as follows:

3 3. a. A postsecondary registration fund is created in
4 the state treasury under the control of the commission. Fees
5 collected under this section shall be deposited in the
6 general postsecondary registration fund of the state and are
7 appropriated to the commission for purposes of administering
8 this chapter.

9 b. The moneys credited to the postsecondary registration
10 fund are not subject to section 8.33, and moneys in the fund
11 shall not be transferred, used, obligated, appropriated,
12 or otherwise encumbered except as provided by law.
13 Notwithstanding section 12C.7, subsection 2, interest or
14 earnings on moneys deposited in the postsecondary registration
15 fund shall be credited to the fund.

16 Sec. 2. Section 714.17, Code 2011, is amended to read as
17 follows:

18 **714.17 Unlawful advertising and selling of educational**
19 **courses of instruction.**

20 It shall be unlawful for any person, firm, association,
21 or corporation maintaining, advertising, or conducting in
22 Iowa any educational course ~~of instruction~~ for profit, or
23 for tuition charge, whether by classroom instructions, ~~or~~ by
24 correspondence, or by other delivery method to:

25 1. Falsely advertise or represent to any person any matter
26 material to ~~such an educational~~ course of instruction. All
27 advertising of such courses ~~of instruction~~ shall adhere to and
28 comply with the rules and regulations of the federal trade
29 commission as of ~~July 4, 1965~~ July 1, 2010.

30 2. Collect tuition or other charges in excess of one hundred
31 fifty dollars in the case of educational courses offered by
32 ~~correspondence courses of study~~, in advance of the receipt and
33 approval by the pupil of the first assignment or lesson of such
34 course. Any contract providing for advance payment of more
35 than one hundred fifty dollars shall be voidable on the part of

1 the pupil or any person liable for the tuition provided for in
2 the contract.

3 3. Promise or guarantee employment utilizing information,
4 training, or skill purported to be provided or otherwise
5 enhanced by a an educational course, unless the promisor or
6 guarantor offers the student or prospective student a bona
7 fide contract of employment agreeing to employ said student
8 or prospective student for a period of not less than one
9 hundred twenty days in a business or other enterprise regularly
10 conducted by the promisor or guarantor and in which such
11 information, training, or skill is a normal condition of
12 employment.

13 Sec. 3. Section 714.18, subsection 1, Code 2011, is amended
14 to read as follows:

15 1. Except as otherwise provided in subsection 2, every
16 person, firm, association, or corporation maintaining or
17 conducting in Iowa any ~~such~~ educational ~~course of instruction~~
18 by classroom instruction or by correspondence or by other
19 ~~distance~~ delivery method, or soliciting in Iowa the sale of
20 such course, shall file with the college student aid commission
21 all of the following:

22 a. A continuous corporate surety bond to the state of
23 Iowa in the sum of fifty thousand dollars conditioned ~~for~~
24 on the faithful performance of all contracts and agreements
25 with students made by such person, firm, association, or
26 corporation, or their salespersons; but the aggregate liability
27 of the surety for all breaches of the conditions of the bond
28 shall not exceed the sum of the bond. The surety on the bond
29 may cancel the bond upon giving thirty days' written notice
30 to the college student aid commission and thereafter shall be
31 relieved of liability for any breach of condition occurring
32 after the effective date of the cancellation.

33 b. A statement designating a resident agent for the purpose
34 of receiving service in civil actions. In the absence of such
35 designation, service may be had upon the secretary of state if

1 service cannot otherwise be made in this state.

2 *c.* A copy of any catalog, prospectus, brochure, or other
3 advertising material intended for distribution in Iowa.
4 Such material shall state the cost of the educational course
5 offered, the schedule of tuition refunds for portions of the
6 educational course not completed, and if no refunds are to
7 be paid, the material shall so state. Any contract induced
8 by advertising materials not previously filed as provided in
9 this chapter shall be voidable on the part of the pupil or any
10 person liable for the tuition provided for in the contract.

11 Sec. 4. Section 714.18, subsection 2, paragraph a,
12 subparagraphs (1) and (4), Code 2011, are amended to read as
13 follows:

14 (1) A continuous corporate surety bond to the state of
15 Iowa in the sum of fifty thousand dollars or ten percent
16 of the total annual tuition collected, whichever is less,
17 conditioned ~~for~~ on the faithful performance of all contracts
18 and agreements with students made by such school. A school
19 desiring to file a surety bond based on a percentage of annual
20 tuition shall provide to the college student aid commission, in
21 the form prescribed by the commission, a notarized statement
22 attesting to the total amount of tuition collected in the
23 preceding twelve-month period. The commission shall determine
24 the sufficiency of the statement and the amount of the bond.
25 Tuition information submitted pursuant to this subparagraph
26 shall be kept confidential.

27 (4) The college student aid commission may accept a letter
28 of credit ~~from~~ issued by a bank in lieu of and for the amount
29 of the corporate surety bond required by this paragraph
30 ~~"a"~~ subparagraphs (1) through (3), as applicable.

31 Sec. 5. Section 714.19, subsections 6 through 8, Code 2011,
32 are amended to read as follows:

33 6. Schools and educational programs conducted by firms,
34 corporations, or persons ~~for the training of their own~~
35 ~~employees,~~ for which no fee is charged.

1 7. Seminars, refresher courses, and schools of instruction
2 ~~sponsored~~ conducted by professional, business, or farming
3 organizations or associations for the members and employees of
4 members of such organizations or associations. A person who
5 provides instruction under this subsection who is not a member
6 or an employee of a member of the organization or association
7 shall not be eligible for this exemption.

8 8. Private business schools accredited by ~~the accrediting~~
9 ~~commission for business schools or an acknowledged~~ accrediting
10 agency recognized by the United States department of education
11 or the council for higher education accreditation.

12 Sec. 6. Section 714.19, Code 2011, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 10. Private, nonprofit schools that are
15 eligible for state student financial aid programs authorized
16 under chapter 261.

17 Sec. 7. Section 714.22, Code 2011, is amended to read as
18 follows:

19 **714.22 Trade and vocational schools — exemption —**
20 **conditions.**

21 1. For the purposes of this section, a "trade or vocational
22 school" means one which provides a postsecondary educational
23 course that prepares a student for employment in a recognized
24 occupation.

25 2. a. The provisions of sections ~~714.17~~ 714.18 through
26 714.21 shall not apply to trade or vocational schools if they
27 meet either of the following conditions:

28 ~~1-~~ (1) File a bond or a bond is filed on their behalf by
29 a parent corporation with the college student aid commission
30 as required by section 714.18.

31 ~~2-~~ (2) ~~File an annual sworn statement, or such statement is~~
32 ~~filed on their behalf by a parent corporation, certified by a~~
33 ~~certified public accountant, showing all assets and liabilities~~
34 ~~of the trade or vocational school and the assets of any parent~~
35 ~~corporation. The statement shall show the trade or vocational~~

1 school's net worth, or the net worth of the school's parent
2 corporation, to be is not less than five times the amount of
3 the bond required by section 714.18. The trade or vocational
4 school shall file with the college student aid commission an
5 annual sworn statement, or such statement shall be filed on
6 the school's behalf by a parent corporation, certified by a
7 certified public accountant, showing all assets and liabilities
8 of the trade or vocational school and the assets of any parent
9 corporation. If a parent corporation files the statement or
10 its net worth is included in the statement to comply with this
11 subsection, the parent corporation shall appoint a registered
12 agent and otherwise is subject to section 714.18, subsection
13 1, paragraph "b", and is liable for the breach of any contract
14 or agreement with students as well as liable for any fraud in
15 connection with the contract or agreement or for any violation
16 of section 714.16 by the trade or vocational school or any of
17 its agents or salespersons.

18 b. For the purposes of this subsection, the net worth of a
19 trade or vocational school or the school's parent corporation,
20 as applicable, shall be determined by the amount the school's
21 or parent corporation's assets exceed its liabilities as shown
22 in the sworn statement required to be filed pursuant to this
23 subsection.

24 Sec. 8. Section 714.23, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 0A. a. For the purposes of this section
27 and section 714.25, "*postsecondary educational program*" means
28 a series of postsecondary educational courses that lead to
29 a recognized educational credential such as an academic or
30 professional degree, diploma, or license.

31 b. For the purposes of this section, "*school period*" means
32 the course, term, payment period, postsecondary educational
33 program, or other period for which the school assessed tuition
34 charges to the student. A school that assesses tuition charges
35 to the student at the beginning of each course, term, payment

1 period, or other period that is shorter than the postsecondary
2 educational program's length shall base its tuition refund on
3 the amount of tuition costs the school charged for the course,
4 term, or other period in which the student terminated. A
5 school shall not base its tuition refund calculation on any
6 portion of a postsecondary educational program that remains
7 after a student terminates unless the student was charged for
8 that remaining portion of the postsecondary educational program
9 before the student's termination.

10 Sec. 9. Section 714.23, subsections 1 through 5, Code 2011,
11 are amended to read as follows:

12 1. A person offering a ~~course of instruction at the~~
13 ~~postsecondary level~~ postsecondary educational program, for
14 profit, that is more than four months in length and leads
15 to a ~~degree, diploma, or license~~ recognized educational
16 credential, shall make a pro rata refund of ~~no less than~~
17 ~~ninety percent of the tuition for charges to~~ a terminating
18 student ~~to the appropriate agency based upon~~ in an amount
19 that is not less than ninety percent of the amount of tuition
20 charged to the student multiplied by the ratio of completed
21 number of scheduled school days to the number of calendar days
22 remaining in the school period until the date equivalent to the
23 completion of sixty percent of the scheduled school calendar
24 days of in the school term or course period.

25 2. Notwithstanding the provisions of subsection 1, the
26 following tuition refund policy shall apply:

27 a. If a terminating student has completed sixty percent or
28 more of a school ~~term or course that is more than four months in~~
29 ~~length period~~, the person offering ~~the course of instruction a~~
30 postsecondary educational program that is more than four months
31 in length is not required to refund tuition ~~for charges to~~ the
32 student. However, if, at any time, a student terminates a
33 ~~school term or course~~ postsecondary educational program that is
34 more than four months in length due to the student's physical
35 incapacity or due to the transfer of the student's spouse's

1 employment to another city, the terminating student shall
2 receive a refund of tuition charges in an amount ~~which that~~
3 equals the amount of tuition charged to the student multiplied
4 by the ratio of the remaining number of ~~school~~ calendar days in
5 the school period to the total school number of calendar days
6 of in the school term or course period.

7 ~~b. A refund of ninety percent of the tuition for a~~
8 ~~terminating student shall be paid to the appropriate agency~~
9 ~~based upon the ratio of completed number of school days to the~~
10 ~~total school days of the school term or course. A school shall~~
11 provide to a terminating student a refund of tuition charges
12 in an amount that is not less than ninety percent of the amount
13 of tuition charged to the student multiplied by the ratio of
14 the remaining number of calendar days in the school period
15 to the total number of calendar days in the school period.
16 This paragraph "b" applies to those persons offering ~~courses~~
17 ~~of instruction at the postsecondary level~~ a postsecondary
18 educational program of more than four months in length, for
19 profit, whose cohort default rate for students under the
20 Stafford loan program as defined reported by the United States
21 department of education for the most recent federal fiscal year
22 is more than one hundred ten percent of the national average
23 cohort default rate for that program for that period the same
24 federal fiscal year or six percent, whichever is higher.

25 3. ~~If the financial obligations of a student are for three~~
26 ~~or fewer months duration, this section does not apply. In the~~
27 case of a program in which student progress is measured only in
28 clock hours, all occurrences of calendar days in subsections 1
29 and 2 shall be replaced with scheduled clock hours.

30 4. ~~Refunds~~ A refund of tuition charges shall be ~~paid~~
31 provided to the ~~appropriate agency student~~ within thirty days
32 following the student's termination from a postsecondary
33 educational program.

34 5. A student who terminates a ~~course of instruction or~~
35 term postsecondary educational program shall not be charged

1 any fee or other monetary penalty for terminating a ~~course of~~
2 ~~instruction or term~~ the postsecondary educational program,
3 other than a reduction in tuition refund as specified in this
4 section.

5 Sec. 10. NEW SECTION. **714.24 Additional requirements.**

6 1. A required filing of evidence of financial
7 responsibility pursuant to section 714.18 or 714.22 must be
8 completed at least once every two years.

9 2. A filing of a claim for an exemption pursuant to section
10 714.19 must be completed at least once every two years.

11 3. An entity that claims an exemption under section 714.19
12 must file evidence of financial responsibility pursuant to
13 section 714.18 or 714.22 within two business days following
14 the date upon which conditions that qualify the entity for an
15 exemption under section 714.19 no longer exist.

16 4. An entity that is required to file evidence of financial
17 responsibility under section 714.18 or 714.22, or an entity
18 that files a claim of exemption under section 714.19, shall
19 utilize required forms approved and supplied by the commission.

20 5. *a.* The commission shall set by rule and collect
21 a nonrefundable fee from each entity that files with the
22 commission under section 714.18, 714.19, or 714.22.

23 *b.* Fees collected under paragraph "a" shall be deposited
24 into the postsecondary registration fund created under chapter
25 261B and are appropriated to the commission for purposes of
26 administering sections 714.18 through 714.25.

27 6. The commission and the attorney general may,
28 individually or jointly, adopt rules pursuant to chapter 17A
29 for the implementation of sections 714.18 through 714.25.

30 Sec. 11. Section 714.25, Code 2011, is amended to read as
31 follows:

32 **714.25 Disclosure.**

33 1. For purposes of this ~~chapter section~~, ~~unless the~~
34 ~~context otherwise requires~~, "*proprietary school*" means a person
35 offering a ~~course of instruction at the postsecondary level~~

1 postsecondary educational program, for profit, that is more
2 than four months in length and leads to a ~~degree, diploma, or~~
3 ~~license~~ recognized educational credential, such as an academic
4 or professional degree, diploma, or license.

5 2. A proprietary school shall, prior to the time a student
6 is obligated for payment of any moneys, inform the student, the
7 college student aid commission, and in the case of a school
8 licensed under section 157.8, the board of cosmetology arts
9 and sciences or in the case of a school licensed under section
10 158.7, the board of barbering, of all of the following:

11 a. The total cost of the ~~course of instruction~~ postsecondary
12 educational program as charged by the proprietary school.

13 b. An estimate of any fees which may be charged the
14 student by others which would be required if the student is
15 to successfully complete the ~~course~~ postsecondary educational
16 program and, ~~if applicable,~~ obtain a ~~degree, diploma, or~~
17 license recognized educational credential.

18 c. The percentage of students who successfully complete
19 the ~~course~~ postsecondary educational program, the percentage
20 who terminate prior to completing the ~~course~~ postsecondary
21 educational program, and the period of time upon which the
22 proprietary school has based these percentages. The reporting
23 period shall not be less than one year in length and shall not
24 extend more than five years into the past.

25 d. If claims are made by the proprietary school as to
26 successful placement of students in jobs upon completion of the
27 ~~course of study~~ proprietary school's postsecondary educational
28 programs, the proprietary school shall provide the student with
29 all of the following:

30 (1) The percentage of graduating students who were placed
31 in jobs in fields related to the ~~course of instruction~~
32 postsecondary educational programs.

33 (2) The percentage of graduating students who went on to
34 further education immediately upon graduation.

35 (3) The percentage of students who, ninety days after

1 graduation, were without a job and had not gone on to further
2 education.

3 (4) The period of time upon which the reports required by
4 paragraphs "a" through "c" were based. The reporting period
5 shall not be less than one year in length and shall not extend
6 more than five years into the past.

7 e. If claims are made by the proprietary school as to income
8 levels of students who have graduated and are working in fields
9 related to the proprietary school's ~~course of instruction~~
10 postsecondary educational programs, the proprietary school
11 shall inform the student of the method used to derive such
12 information.

13 Sec. 12. Section 714.25, Code 2011, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 3. The requirements of subsection 2 shall
16 not apply to a proprietary school that is eligible for federal
17 student financial aid under Tit. IV of the federal Higher
18 Education Act of 1965, as amended.

19 EXPLANATION

20 This bill makes various changes relating to the college
21 student aid commission's oversight functions over the
22 advertising, financial responsibility, tuition refund, and
23 disclosure requirements and restrictions governing certain
24 educational programs and courses, creates a fund, and provides
25 for fees.

26 The bill establishes a postsecondary registration fund
27 comprised of the filing fees collected by the college student
28 aid commission. The moneys in the fund are appropriated to the
29 commission for purposes of administering Code chapter 261B,
30 relating to postsecondary school registration.

31 The bill amends Code section 714.19, relating to the
32 nonapplicability of Code sections 714.17 to 714.22, governing
33 business and financial practices of sellers of educational
34 courses, to provide that instructors for courses conducted
35 by professional, business, or farming organizations or

1 associations for the members and employees of members of such
2 entities who are not members or employees of members themselves
3 are ineligible for exemption from Code sections 714.17 to
4 714.22. The bill specifies accreditation standards for private
5 business schools exempt from Code sections 714.17 to 714.22.
6 The bill creates a new exemption from Code sections 714.17
7 to 714.22 for private, nonprofit schools eligible for state
8 student financial aid programs authorized under Code chapter
9 261.

10 The bill amends Code section 714.23 to remove the exemption
11 for students with financial obligations of three or fewer
12 months' duration from standards regarding tuition refund
13 policies. The bill provides for the inclusion of educational
14 programs in which student progress is measured only in clock
15 hours under standards regarding tuition refund policies. The
16 bill also provides that certain tuition refunds must be paid
17 directly to students. A violation of Code section 714.23 is a
18 simple misdemeanor, which is punishable by confinement for not
19 more than 30 days or a fine of at least \$65 but not more than
20 \$625 or by both.

21 The bill provides that the commission may collect
22 nonrefundable fees for the filing of evidence of financial
23 responsibility and claims for exemption relating to the
24 commission's oversight functions under Code chapter 714. The
25 bill specifies that such fees must be deposited into the
26 postsecondary registration fund created under Code chapter
27 261B and are appropriated to the commission for purposes of
28 administering the commission's oversight functions under Code
29 chapter 714.

30 The bill amends Code section 714.25 to exempt from certain
31 disclosure requirements proprietary schools, as defined in the
32 bill, that are eligible for federal student financial aid under
33 Tit. IV of the Higher Education Act of 1965.

34 The bill provides that the commission and the attorney
35 general may, individually or jointly, adopt rules pursuant

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1 to Code chapter 17A to carry out the commission's oversight
2 functions under Code chapter 714.

3 Finally, the bill makes changes to terminology,
4 demonstration of compliance, and exemptions relating to the
5 commission's oversight functions under Code chapter 714.